UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

A. DAVID LAWSON and CYNTHIA J. LAWSON,	)	
Plaintiffs,	)	
v.	)	**No. _______**
SPECIALIZED LOAN SERVICING LLC, DEUTSCHE BANK NATIONAL TRUST COMPANY, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., SHAPIRO & INGLE LLP, TRULIA, INC. and ZILLOW GROUP MORTGAGES, INC.	)	
Defendants.	)	

COMPLAINT

1. The United States District Court Eastern District of Tennessee at Knoxville has jurisdiction over this matter because the Plaintiffs own and reside in the real property located in Knoxville, Tennessee. This is a diversity case as all Defendants are non-Tennessee entities with the exception of Shapiro & Ingle LLP. The amount at issue in this suit is over $75,000.00.

Parties

2. Plaintiff A. David Lawson resides at 3920 Windcrest Road, Knoxville, Knox County, Tennessee 37931, 865-470-8880.

3. Plaintiffs Cynthia J. Lawson resides at 3920 Windcrest Road, Knoxville, Knox County, Tennessee 37931, 865-470-8880.

4. Defendant Specialized Loan Servicing LLC ("SLS") is a foreign entity with a registered agent of Capitol Corporation Services, Inc., Suite B, 992 Davidson Drive, Nashville, Tennessee 37205-1051.

5. Defendant Deutsche Bank National Trust Company ("Deutsche Bank") is a foreign entity that is no longer registered with the State of Tennessee. Its address is 1761 East Saint Andrew Place, Santa Ana, California 92705-4934.

6. Mortgage Electronic Registration Systems, Inc. ("MERS") is a foreign entity that is no longer registered with the State of Tennessee. Its corporate address is 1818 Library Street, Suite 300, Reston, Virginia 20190.

7. Shapiro & Ingle, LLP ("Shapiro & Ingle") is a Tennessee entity with a registered agent of CT Corporation System, Suite 2021, 800 South Gay Street, Knoxville, Tennessee 37929-9710

8. Defendant Trulia, Inc. is a Delaware state registered corporation with a principal office of 535 Mission Street, Suite 700, San Francisco, California 94105. It is not register in with the Tennessee Secretary of State.

9. Defendant Zillow Group Mortgages, Inc. is a corporation with a registered agent of CT Corporation System, Suite 2021, 800 South Gay Street, Knoxville, Tennessee 37929-9710.

Illegal Foreclosure

10. Plaintiff David and wife, Cynthia Lawson ("Lawsons") purchased their home located at 3920 Windcrest Road, Knoxville, Tennessee 37931 on December 7, 2005. They obtained a loan of $144,800.00 to purchase the home from First Franklin, A Division of National City Bank of Indiana ("First Franklin").

11. The Deed of Trust (Exhibit 1) that secures the loan provides that Defendant MERS acts as a nominee for First Franklin and is a beneficiary of the Deed of Trust. The Deed of Trust further states that MERS holds legal title to the interests granted by the Lawsons in the Deed of Trust.

12. Paragraph 20 of the Deed of Trust allows MERS the right to sale interest in the Deed of Trust and its companion Adjustable Rate Note (Exhibit 2) without notice to the Lawsons.

13.MERS is a "national electronic registry system that tracks changes in servicing rights and beneficial ownership interests in mortgage loans that are registered on the registry." *Mortgage Electronic Registration Systems, Inc. v. Carlton J. Ditto et al*, 488 S.W.3d 265, 269. The registry allows lenders to trade mortgage notes and service rights on a market without the cumbersome and expensive requirement of having to register the change of ownership in the Register of Deeds for the county where the property is located. MERS maintains the records of servicing rights and beneficial ownership interests.

14.Numerous loans are "bundled" together to create a trust instrument that is sold and traded on the secondary market. The Lawson's loan is designated as FFMLT Trust 2006-FF4, Mortgage Pass-Through Certificates, Series 2006-FF4. Defendant Deutsche Bank is alleging ownership and/or Trustee of the abovementioned security and thus claims the right to foreclose.

15.Defendant SLS has been assigned by an unknown owner to be the loan servicer. On September 4, 2016, SLS sent the Lawsons a letter stating that their loan was in default (Exhibit 3).

16.On November 17, 2016, Defendant Shapiro & Ingle, a law firm apparently representing SLS, sent a letter to the Lawsons stating that the debt amount was $155,841.05 and the owner of the debt was Deutsche Bank National Trust Company (Exhibit 4). The Lawsons had 30 days to respond to the letter in order to dispute the amount of the debt pursuant to the Fair Debt Collections Practices Act, and they could also ask for information on the original creditor. At this point, Shapiro & Ingle had not been appointed substitute trustee to foreclose on the loan.

17. On December 9, 2016, the Lawsons sent a letter to Shapiro & Ingle requesting the name and address of the original creditor in additional to a history of various owners of the loan to give Deutsche Bank an opportunity to demonstrate its actual ownership (Exhibit 5). The letter also requested a breakdown of the lump sum debt amount of $155,841.05. On December 15, 2016 attorney Stephen H. Byrd, representing the Lawsons, sent another letter to SLS requesting a breakdown of principle, interest, attorney fees and other costs that were being charged in the foreclosure proceeding (Exhibit 6). The letters were sent by certified mail, overnight, by FAX and via email so that Shapiro & Ingle and SLS would certainly receive them timely.

18. On December 16, 2016, SLS sent attorney Stephen H. Byrd a letter stating that because only 38 days remained before the foreclosure sale scheduled for January 17, 2017, SLS could not evaluate the requests sent or cancel the sale

in order to evaluate the requests. (Exhibit 7). The actions on the part of SLS and Shapiro & Ingle are intentionally deceptive in that the Lawsons complied with the timely deadlines for information requests; however, the deadlines were set so close to the foreclosure sale in order to give excuses for non-performance by SLS and Shapiro & Ingle.

19. SLS and alleged debt owner Deutsche Bank violated 12 U.S.C §2605(e) and 12 CFR 1024.36 in that it received a qualified written request from the Lawsons for information relating to the chain of title. Instead of answering the request within 30 days or asking for an additional 15 days that the abovementioned law allows to answer the request, SLS simply refused to answer the request altogether. Moreover, SLS did not allege any exception to the information request as provided in 12 CFR 1024.36(f). The Defendants also violated 12 U.S.C §2605(k)(1)(C) in that the failed to take timely action to respond to the Lawsons' requests to avoid foreclosure.

20. SLS then sent a letter dated December 16, 2016 (Exhibit 8) that required all Notices of Error and Requests for Information (Including Qualified Written Requests) be sent to:

> Specialized Loan Servicing LLC
> P.O. Box 630147
> Littleton, CO 80163.

21. This address was deceptively not mentioned in any previous letter discussing the ability of the Lawsons to obtain information. Moreover, even though the letter was dated December 16, 2016, it was received around December 28, 2016 whereas other letters with similar dates from SLS were received before Christmas. The Lawsons aver that SLS intentionally mailed the letter late as an additional way to discourage them pursuing information regarding their loan and foreclosure.

22. SLS, Deutsche Bank and Shapiro & Ingle violated 15 U.S.C. §1692 through the use of false representations and deceptive means by not providing the proper address to send Notices of Error and Requests for Information (Including Qualified Written Requests) and by sending the December 16 dated letter after Christmas.

23. SLS mailed the January 2017 statement that was dated December 19, 2016 (Exhibit 9). The statement includes charges for "Expense Advance Billed Foreclosure Expense" of $330.00 and $495.24 of "Fees/Charges/Optional Product." No explanation was made for the costs even though the Lawsons had made requests weeks before. SLS and alleged debt owner Deutsche Bank violated 15 U.S.C. §1692, 12 U.S.C. §2605 and 12 CFR 1024.35 by not giving explanation of these charges and the other various charges for the

foreclosure along with the monthly statement. The Defendants should have provided a reconciliation of the principle balance with the accelerated amount. In addition, the Defendants also violated 12 U.S.C §2605(k)(1)(C) in that they failed to take timely action to respond to the Lawsons' reasonable requests.

24. In addition, SLS, alleged debt owner Deutsche Bank and Shapiro & Ingle attempted to deceive the Lawsons into believing that they could merely pay the due amount on the January statement and the foreclosure would cease in violation of 15 U.S.C. §1692. No provisions or reconciliations were made in the January statement for the additional foreclosure charges that inflated the total amount due of $155,841.05 according to the November 17, 2016 letter.

25. On December 24, 2016, SLS send a letter that provided the name and address of the original lender from the Deed of Trust (Exhibit 10). Moreover, the letter provided generic explanations for a few hundred dollars of costs added to the acceleration amount due; however, SLS did not provide an adequate explanation as to how the loan amount ballooned several thousand dollars over the principle amount of $148,985.65. The letter stated that the foreclosure sale had been "postponed" until January 17, 2017. SLS had not postponed the sale as it had been set for January 17 from the

beginning. This is another example of SLS subtly trying to deceive the Lawsons into believing that the sale was postponed with slightly inaccurate but intentional wording.

26. SLS, alleged debt owner Deutsche Bank and Shapiro & Ingle violated 15 U.S.C. §1692 12 U.S.C. §2605 and 12 CFR 1024.35 by not giving explanation of these charges and the other various charges for the foreclosure along with the monthly statement. The Defendants also violated 12 U.S.C §2605(k)(1)(C) in that they failed to take timely action to respond to the Lawsons' reasonable requests.

27. In addition, SLS, Deutsche Bank and Shapiro & Ingle violated 15 U.S.C. §1692 through the use of false representation and deceptive means by stating that "(t)he foreclosure sale date has been postponed until January 17, 2017" when January 17 was the original date of the foreclosure. The Defendants might argue this is merely a typographical error or is inconsequential; however, considering the scrutiny and definitiveness of foreclosure documents, this wording was intentional to mislead the enormously stressed consumers, such as the Lawsons, that their efforts to conform to the dogmatic requirements propounded by the Defendants have actually created foreclosure relief.

28. On December 12, 2016, David Lawson called SLS with questions regarding the loan. He surprisingly discovered that the foreclosure process had begun without written notice. The auction date was set for January 17, 2017. None of the Defendants sent a copy of the notice of sale as required by Paragraphs 15 and 22 of the Deed of Trust and Tennessee Code Annotated §35-5-101 *et seq*. The only written document from the Defendants that even mentioned the sale that was received by the Lawsons was the December 24, 2016 letter stating that the sale had been "postponed" as discussed *supra*. These violations of both the Deed of Trust and the law are fatal to the foreclosure process against the Lawsons.

29. The notice of Substitute Trustee's Sale (Exhibit 11) states that the sale at public auction may be rescinded at any time by the Substitute Trustee. The sale is subject to confirmation by the alleged owner of the debt, Deutsche Bank, or by the substitute trustee, Shapiro & Ingle. Nothing in the Deed of Trust, the Adjustable Rate Note or the law gives the Defendants that right to confirm and/or rescind the sale. The purpose of the public auction is to obtain the highest bidder for the property that is subject to the Deed of Trust. As long at the highest bidder proffers the monies bid at the auction, the Defendants have a duty to the Lawsons to take the funds to offset and cancel

the debts owed on the loan. The Defendants do not have the right to rescind the sale for any reason so long as the highest bid amount is paid timely. This additional power that alleged owner Deutsche Bank and Shapiro & Ingle are imposing upon the sale at public auction is a violation of the Deed of Trust and Adjustable Rate Note.

30. Shapiro and Ingle sent a letter dated January 11, 2017 that the foreclosure sale had been rescheduled for February 20, 2017 (Exhibit 12). The Plaintiffs presumed that the Defendants realized that they needed the additional month to investigate the requests made by the Plaintiffs in Exhibits 5 and 6. Moreover, the Defendants might have desired to rectify the plethora of inadequacies and illegalities in their foreclosure process. Instead Shapiro and Ingle sent another copy of the original Deed of Trust, the Adjustable Rate Note and the Payment History (Exhibit 13). The Plaintiffs had previously received these documents from SLS in a package that came with Exhibit 10's December 24, 2016 letter.

31. The Defendants did not utilized the additional time to produce chain of title owner proof or the detailed breakdown of the inflated foreclosure amount. They could no longer attempt to use the excuse that they could not provide the information because the sales date was only 38 days away. They had an

additional month to perform the research. And the research was merely requesting MERS to perform a simple computer query relating to the loan.

32. The Defendants perpetuated these intentional deceptions in violation of 12 USC § 1692(e) and (g). Moreover, the Defendants did not provide the information timely in spite of the additional month in violation of 12 USC § 2605(e)(2). They did not ask for the additional 15 days to provide the information under 12 CFR 1024.36. The Plaintiff's requests were reasonable, and the Defendants never complained of them being unduly burdensome. They just refused to provide the chain of title research and the detailed breakdown of the inflated foreclosure amount.

Trulia's Slander of Title

33. Defendant Trulia, Inc. provides information relating to homes for sale on its website entitled www.Trulia.com. Although Trulia, Inc. is not registered with the Tennessee Secretary of State, the name "Trulia" is a Tennessee registered name utilized by Defendant Zillow Group Mortgages, Inc. For the remainder of this Complaint, the two corporations shall be called "Trulia."

34. Almost immediately after the original foreclosure sale date of January 17, 2017 that was postponed, Trulia updated its information relating to 3920

Windcrest Road. The website stated that the "property had been foreclosed and now the lender of this property is selling it for $219,900.00" (Exhibit 14). The website also states that the "lender has taken ownership of this property through a foreclosure auction."

35. A couple of weeks later, the realtor for the Plaintiffs lowered the sales price of the home to $205,000.00 on her local Knoxville area multiple listing system. Trulia also updated their website to reflect the price change; however, the abovementioned language was not changed.

36. Trulia is in the business of providing information to website consumers around the world who are looking to purchase homes. It acted maliciously in publishing false, incorrect and misleading statements about the title ownership of the Plaintiff's property. Apparently Trulia did not check to see if the foreclosure sale actually occurred on January 17, 2017 before it published the information on its website.

37. The Plaintiffs still hold title and are legal owners of 3920 Windcrest Road. They are still attempting to sell the home through their local realtor. Trulia's slander of title is damaging their ability to sale the property for its fair market value. The Plaintiffs had to lower the sales price by $15,000.00 merely a couple of weeks after Trulia had published the slanderous

statements. They do not know how much the home will have to be discounted before it actually sells. The offers received by the Plaintiffs are far less than before Trulia's malicious publishing.

38. The fact that Trulia updated the sales price on its website but did not rectify the slander of title further gives proof to its knowing, intentional and malicious behavior with regard to publishing incorrect information about the Plaintiffs and their home.

39. Moreover, Trulia's abovementioned actions violate the Tennessee Consumer Protection Act. Unfair and deceptive acts and practices are defined as representing that someone has conducted a foreclosure on real property when it knew or should have known that a foreclosure sale actually did not occur according to Tennessee Code Annotated § 47-18-109(b)(39). Here Trulia either knew or should have known that the foreclosure sale did not occur on January 17, 2017. It was able to ascertain that the price was lowered by the Plaintiffs' realtor, but Trulia either did not know or did not care that the sale had been postponed.

40. Trulia's unfair and deceptive acts and practices are willful and knowing violations of the Act. And as such, the Plaintiffs should be awarded treble damages and attorney's fees and costs. The Plaintiffs cannot sell their home

for its $230,000.00 fair market value because of Trulia's actions. Thus, the Plaintiffs have suffered actual damages in the amount of $230,000.00 and should be awarded treble damages of $690,000.00.

Summary

41. In summary, the Defendants have not proven ownership of the debt and thus do not have standing to foreclose upon the Lawsons' home. Reasonable requests have been made by the Lawsons for chain of title information that should be relatively simple to obtain through the MERS database of ownership. Since the Defendants cannot provide the information timely; one can only assume that the information is not available; therefore, the Defendants need to prove chain of title ownership of the debt independent of the MERS system before any action of foreclosure needs to be considered.

42. The Defendants have violated the Deed of Trust, the Fair Debt Collection Practices Act and the Real Estate Settlement Procedures Act ("RESPA") in the manner to which they have performed the foreclosure proceedings as discussed *supra*. The civil penalties for RESPA violations are actual damages incurred by the Plaintiffs and up to $2,000.00 per occurrence for patterns and practices of noncompliance pursuant to 12 USC § 2605(f). Here the Plaintiffs have actual damages in the amount of the $230,000.00

fair market value of the home that the Defendants are trying to take away from them by an illegal foreclosure sale. Moreover, the Defendants have violated RESPA at least 5 times by not answering reasonable information requests, by sending inadequate information, by not adhering to the notice requirements when receiving requests and by fabricating nonsensical excuses for sending inadequate information. The damages claimed are $10,000.00.

43. The Fair Debt Collection Practices Act allows the Plaintiffs to recover actual damages and additional damages up to $1,000.00 for each person pursuant to 15 USC § 1692k(a). Here multiple Defendants, acting as debt collectors, attempted to deceive the Plaintiffs in various ways as discussed *supra*. Here the Plaintiffs have actual damages in the amount of the $230,000.00 fair market value of the home that the Defendants are trying to take away from them by an illegal foreclosure sale. Moreover, the violations to both Plaintiffs require $2,000.00 penalties to SLS, Deutsche Bank and Shapiro and Ingle totaling $6,000.00.

44. The Defendants violated the provisions of the Deed of Trust and Tennessee Code Annotated § 35-5-101 *et seq* by not proving the Plaintiffs proper notice

of the foreclosure sale. These are fatal flaws in the foreclosure process that requires the Court to enjoin the Defendants from selling the property.

45. Moreover, the Defendants attempted to reserve the right to confirm or rescind auction sales in the notice of Substitute Trustee's Sale. The Plaintiffs did not relinquish such power or rights to the Defendants in the Deed of Trust or Adjustable Rate Note. As such, the Defendants are violating the contractual agreement with the Plaintiffs to foreclose on the property. This is another fatal flaw in the foreclosure process that requires the Court to enjoin the Defendants from selling the property.

Demand

46. Plaintiffs David and Cynthia Lawson demand the Court to:

a. Enjoin the Defendants from foreclosing on the Lawson's property for lack of standing to foreclose;

b. In the alternative, provide injunctive relief regarding the foreclosure until the Defendants can provide evidence of chain of title that lead to ownership through both the MERS system and independent means;

c. The Defendants be held in violation of the abovementioned laws and Deed of Trust language;

d. The Lawsons be paid $230,000.00 as damages for violations of the abovementioned statutes;

e. The Lawsons be paid $690,000.00 in treble damages for Consumer Protection Act violations;

f. The Lawsons be paid $10,000.00 in penalties for RESPA violations;

g. The Lawsons be paid $6,000.00 in penalties for Fair Debt Collection Practices Act;

h. The Lawsons be awarded attorney fees pursuant to the abovementioned statutes;

i. Tax court costs to the Defendants; and,

j. Any further relief that the Court believes the Lawsons deserve.

This the 9th day of February, 2017

Stephen H. Byrd, BPR # 030014
9051 Executive Park Drive, Suite 200
Knoxville, Tennessee 37923
Office: (865) 250-1968
FAX: (865) 675-1970
BunkyByrd@gmail.com